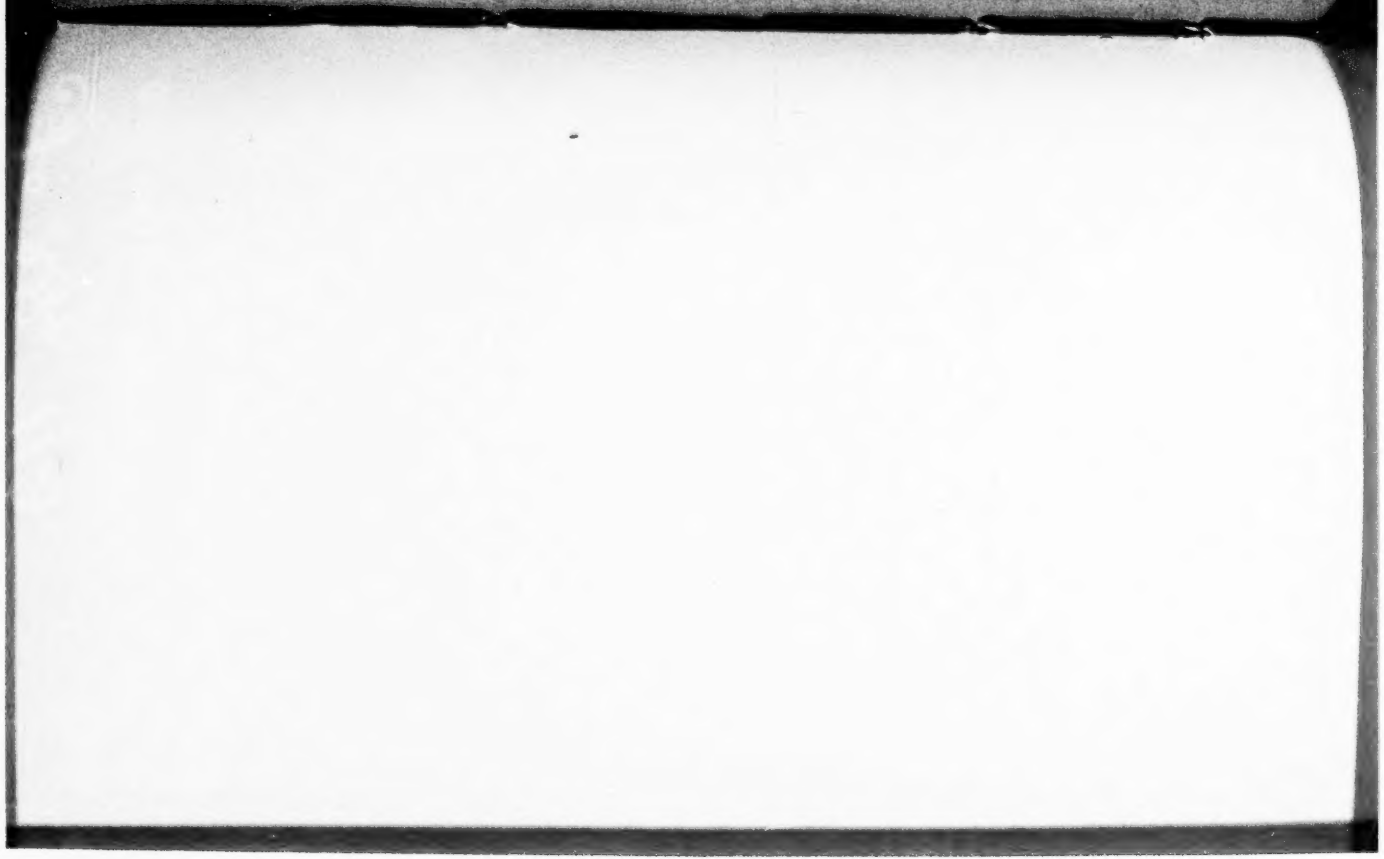

No. 381. 113.

FILED
DEC 11
JAMES H. McKE

Motion Papers.

Supreme Court
Filed Dec. 11, 1897.
of the United States.

OCTOBER TERM, 1897.

No. 381.

E. C. Means, et al., Admrs.
of the Estate of
Thos. W. Means,
vs.
Benjamin R. Cowen, et al.,
Trustees, etc.

# MOTION TO ADVANCE.

JUDSON HARMON
AND
J. J. GLIDDEN,
*Counsel for Trustees.*

DECEMBER, 1897.

# Supreme Court of the United States.

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E. C. Means et al, Adm'rs, etc.,
of Thomas W. Means,
vs.
Benj. R. Cowen, et al.,
Trustees, etc.

No. 381.

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**PETITION TO ADVANCE AND GROUNDS THEREOF.**

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This action is brought to this Court by *certiorari* from the unanimous judgment of the Circuit Court of Appeals, Sixth Circuit.

The action is by Trustees of an express trust against the Administrators of the estate of Thos. W. Means.

The trust was created by a transfer of the interest of Wm. Means, as one of the residuary devisees under the will of Thos. W. Means, to Trustees, to secure thereby to the family of Wm. Means, otherwise destitute, means of support and maintenance.

The main question involved in the case is the determination of the amount of that interest, and that determination depends upon the construction of the will.

All the debts of the testator have been paid.

The execution of the trust, and the settlement of the estate of Thomas W. Means, are both necessarily deferred until the final determination of this litigation.

The litigation has been pending for six years. The needs of the beneficiaries are apparent from the record, by their having been compelled to avail themselves of the beneficent provisions of the acts of Congress in aid of indigent litigants.

It seems to us, we say with the utmost deference, that, in granting the writ of *certiorari*, the Court saw fit, for some reason, to make an exception to the rule it has frequently announced. We submit, therefore, that this motion should be granted, in order that the long litigation may be settled speedily and the wife and daughters of William Means given the relief awarded them below, if this honorable Court shall decide in their favor. Delay to them would be almost as bad as denial.

Notice of this motion has been duly served on opposing counsel, and proof of service filed with the clerk.

Opposing counsel authorize us to state that they concur in this application.

JUDSON HARMON
AND
J. J. GLIDDEN,
Of Counsel for Trustees.

CINCINNATI, Dec. 9, 1897.